

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

LEE J. LUDVICK,

Plaintiff,

v.

CHRISTINA L. REIGH, *et al.*,

Defendants.

Case No. 3:22-cv-00036-SLG-KFR

ORDER RE SCREENING ORDER AND REPORT AND RECOMMENDATION

Before the Court at Docket 3 is Plaintiff Lee J. Ludvick's *Prisoner's Complaint Under the Civil Rights Act 42 U.S.C. § 1983*. The matter was referred to the Honorable Magistrate Judge Kyle F. Reardon. At Docket 7 Judge Reardon issued a *Screening Order and Report and Recommendation* in which he recommended that this action be dismissed with prejudice for failing to state a claim upon which relief may be granted and the futility of amendment and, that a dismissal under these circumstances should be a strike as required by 28 U.S.C. § 1915(g) and *Lomax v. Ortiz-Marquez, et al.* 590 U.S. ___, 140 S.Ct. 172 (2020).¹

No objections to the *Screening Order and Report and Recommendation* were filed.

¹ 28 U.S.C. § 1915(g) prohibits a prisoner who has filed more than three actions or appeals in any federal court in the United States that are dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, from bringing any other actions without prepayment of fees unless the prisoner can demonstrate that he or she is in "immediate danger of serious physical injury."

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.”² A court is to “make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.”³ However, § 636(b)(1) does not “require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”⁴

The Court has reviewed the *Screening Order and Report and Recommendation* and agrees with its analysis. Accordingly, the Court adopts the Report and Recommendation in its entirety, and IT IS ORDERED that this action is DISMISSED WITH PREJUDICE for failing to state a claim upon which relief may be granted and the futility of amendment. This dismissal shall be counted as a STRIKE as required by 28 U.S.C. § 1915(g) and *Lomax v. Ortiz-Marquez, et al.* 590 U.S. ___, 140 S.Ct. 172 (2020). A final judgment shall be issued.

DATED this 31st day of August, 2022, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE

² 28 U.S.C. § 636(b)(1).

³ *Id.*

⁴ *Thomas v. Arn*, 474 U.S. 140, 150 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).